REMARKS

Claims 1-4 and 8-12 are all the claims pending in the application. The Examiner rejected

claims 1, 3-4, 8-10, and 12. The Examiner indicated that claims 2 and 11 contain allowable

subject matter.

AMENDMENTS TO THE CLAIMS

Claims 1-2 have been amended to correct minor grammatical errors. No change in scope

is intended.

REJECTIONS UNDER 35 U.S.C. § 103(a)

A.   Claims 1, 8, 10 and 12

Independent claims 1, 8, 10 and 12 have been rejected under 35 U.S.C. § 103(a) as being

unpatentable over U.S. Patent No. 6,212,163 to Aida ("Aida") in view of U.S. Patent No.

5,953,344 to Dail ("Dail"). For at least the following reasons, Applicant respectfully traverses

this rejection.

With respect to claims 1 and 10, the Examiner argues that:

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Aida et al discloses a novel method and system for managing
traffic between endpoints of an ATM network, according to
the essential features of the claims. Aida et al. discloses
a multiplexer (fig. 7, ATM exchanger) in which the user
cells are assigned a virtual channel (Fig. 7 see downward
direction from user to receiving end user) based on a given
quality of service (Col. 5 lines 6- Col. 6 line 10) per the
ATM standard. Multiple virtual channels may share a virtual
path as is known the art for ATM transmission. Each virtual
channel is assigned a buffer memory for the ATM cells to
which assigned a priority corresponding to the given
quality of service (See Fig. 1 and Col. 5 lines 17-27). As
examples of connection admission control methods which
perform processing in real-time, connection admission
control methods which can be applied to a single service
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category (especially those assuming Variable Bit Rate) are
commonly known. In these methods, traffic parameters (peak
cell rate and sustainable cell rate) reported from users
are taken as inputs, and connection admission processing is
performed within a standard period of time without
depending on the number of calls or the traffic conditions.
These methods are applied for each VP, and are carried out
in the connection admission control section 1' shown in
Fig. 7 by means of the flow procedure shown in Fig. 8 (Col.
1, lines 23 plus).

[Discussion of International Telecommunication Union
("ITU") Telecommunication Standards omitted][1]

However, Aida does not disclose expressly the step wherein
a downward data rate from the ATM network to the users is
greater than an upward data rate from the users to the
network. In the same field of endeavor, Dail et al.
(US#5,953,344) teaches in Fig. 2 illustrated the format of
the information in both upstream and downstream cells, in
which the downward data rate from the network to users
greater than the upward data rate from the users to the
network (See also Figs. 4 & 5; Col. 5, lines 39 plus).

. . .

One skilled in the art would have recognized the need for
increase the system performance and improving system
bandwidth utilization, and would have applied Dail's
teaching of the bandwidth allocation to a downward virtual
path while holding the upward path to a fixed bandwidth to
support asymmetrical bandwidth situation and managing QoS
requirement into Aida's novel use of a the multi-class ATM
connection admission control. Therefore, It would have been
obvious to a person of ordinary skill in the art at the
time of the invention was made to apply Dail's method and
apparatus enabling enhanced throughput efficiency by use of

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[1]   Applicant notes that, while the Examiner cited ITU Telecommunication Standards, the Examiner
has not relied on these Standards as forming a basis of the rejection. Accordingly, Applicant does not
consider the recitation starting on the last partial paragraph of page 3 and ending in the first partial
paragraph of page 4 as forming any part of the Examiner's rejection. To the extent the Examiner relies on
these standards as forming the basis for a rejection of any claim in the next Office Action, Applicant
submits such reliance is on a new ground of rejection and such an Office Action should not be made final.

> dynamically adjustable mini-slots in access protocols for
> shared transmission media into Aida's method and device for
> multi-class ATM connection admission control with the
> motivation being to provide a method and system for
> managing the available network bandwidth more efficiently
> for situations requiring asymmetrical bandwidth.

(Office Action at pp. 3-5). With respect to claim 8 and 12, the Examiner argues that

these claims correspond to rejected claims 1 and 10 and are, therefore, rejected on substantially

the same grounds. (*Id.* at 5). The Examiner's stated rejection, however, fails to teach or suggest

each element of the rejected claims. (MPEP 2131).

For example, consider claim 10. Independent claim 10 recites "a bandwidth allocated to

a downward virtual path from the ATM network to one of the plurality of users, is variably

controlled by the call control circuit" and "an upward virtual path, from one of the plurality of

users to the ATM network, has a fixed bandwidth." Assuming *arguendo* that Aida's connection

admission control section 1' corresponds to a call control circuit recited in claim 10, nothing in

the Examiner's discussion of claim 10 relates to a teaching or suggestion of this connection

admission control section 1' variably controlling "a bandwidth allocated to a downward virtual

path form the ATM network to [a] user." Indeed, such a teaching is absent from Aida. Neither

the written description in Aida nor FIGS. 7-8 suggest that connection admission control section

1' has any control over the allocation of bandwidth on a virtual path between a user and an ATM

network. For at least this reason, Applicant submits that claim 10 is patentable over the

combination of Aida and Dail. As claims 1 and 8 recites similar elements, Applicant submits

that these claims are similarly patentable over the cited art.

With respect to claim 12, nothing in the Examiner's discussion of either Aida or Dail

discusses a "method for controlling a telecommunication network ... comprising dynamically

controlling a bandwidth of downward virtual paths by a controller located upstream, wherein a

bandwidth of each upward virtual path is fixed." (*See* Office Action at pp. 3-4). The complete

absence of an explanation of how the cited art is being read onto claim 12 is insufficient to

support the Examiner's rejection. Accordingly, Applicant respectfully requests the Examiner to

withdrawal the rejection.

Finally, while the Examiner has provided a nearly one-half of one page asserting why one

of ordinary skill in the art would combine Aida and Dail (*see* Office Action at p. 5), the

Examiner has not tied such motivation to the teachings of either cited reference. As one element

of the *prima facie* case of obviousness, the Examiner must show that there is some suggestion or

motivation to modify the reference or to combine reference teachings. MPEP 2143.

Unsupported assertions of motivation that appear to be impermissibly drawn from the

Applicant's own disclosure, such as that provided in the Examiner's rejection, are not sufficient

to meet the Examiner's burden. Accordingly, Applicant submits that the rejected claims are

patentable over the cited art for at least this additional reason.

B.   Claims 3-4 and 9

Dependent claims 3-4 and 9 have been rejected under 35 U.S.C. § 103(a) as being

unpatentable over Aida in view of Dail in further view of U.S. Patent No. 6,597,689 to Chiu

("Chiu"). As claims 3-4 and 9 depend from independent claims 1 and 8, respectively, and as

Chiu fails to cure the deficiencies of Aida and Dail discussed above, Applicant respectfully

submits that claims 3-4 and 9 are patentable over the combination of the cited art at least based

on their respective dependencies.

CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed

to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue

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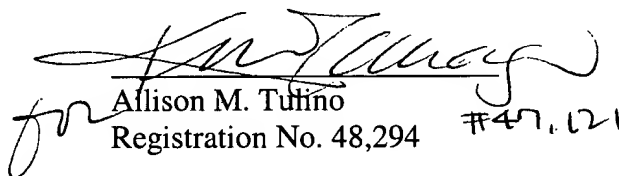
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Respectfully submitted,

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23373
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